IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 7988 of 2004

Between:

Dr.D.Sivasankara Rao, S/o.Kirshna Murthy,
A.Rama Rao) R/o.Jangareddigudem. West Godavari Dist.

..... PETITIONER

AND

1 Transmission Corporation of A.P.Ltd., (A.P.Transco) rep.by its Chief

Managing Director, Vidyut Soudha, Khairatabad,Hyderabad.
2 The Suptd. Engineer, Operation Circle,Eastern Power Distribution Company

of A.P.Limited, Eluru,West Godavari Dist.
3 The Assistant Divisional Engineer, Operation, Eastern Power Distribution

Company of A.P. Limited, Jangareddigudem, W.G.Dist.
4 The Junior Accounts Officer, Sub-R.O.Eastern Power Distribution Company

of A.P. Ltd., Jangareddigudem, West Godavari Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order of direction more particularly one in the nature of writ of Mandamus declaring the proceedings No.SE/O/ELR/DE.T/AAE.T2/F. DOC/D.No.828/04 dated 28-3-2004 of the 2nd respondent as highly illegal, arbitrary unjust without jurisdiction and contrary to section 26 of the India Electricity Act, 190 read with section 49.1 of the India Electricity (A.P. Amendment) Act, 2000 and consequently set aside the same.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondents: MR.M.SUBBHA RAO

The Court made the following:

ORDER:

By the proceedings of the second respondent dated 23.03.2004, the petitioner was directed to pay an amount of Rs.1,46,896/- towards back billing for the period from 05.02.2002 to 20.10.2002 i.e., a period six months prior to the date of inspection of the meterised premises to the date of removal/replacement of the defective meter.

The petitioner purchased a house premises in September, 2001 which was under construction and after completion of the construction, occupied the house in September, 2002. He is running a Nursing Home at the premises. The premises was having two LT service connections granted by the first respondent-Corporation in favour of the earlier owner of the premises. The electricity connection, however, was not transferred in favour of the petitioner. On 05.11.2003, the power supply to the Nursing Home was disconnected. Aggrieved, the petitioner filed C.D.No.162 of 2003 on the file of the District Consumer Disputes Redressal Forum, Eluru. The respondents resisted the adjudication of the claim by the District Consumer Disputes Redressal Forum on the ground that an alternative remedy is available under Condition 22 of the Terms and

Conditions of Supply which form part of the agreement between the petitioner and the respondents. These conditions have also been held to be statutory. Accepting the contentions of the respondents, the District Consumer Disputes Redressal Forum, rejected C.D.No.162 of 2003 on 08.12.2003 reserving liberty to the petitioner to approach the second respondent and submit a representation. The second respondent issued a show-cause notice dated 16.01.2004 for back billing. The petitioner submitted his explanation and objections to the provisional assessment made by the second respondent as set out in the show-cause notice. However, by proceedings dated 23.03.2004, the second respondent confirmed the proposals contained in the show-cause notice and called upon the petitioner to pay an amount of Rs.1,46,896/-. Aggrieved thereby, the writ petition is filed, *inter alia*, challenging the jurisdiction of the second respondent, who adjudicated upon the meter dispute between the petitioner and the first respondent-Corporation on the ground that under Section 26(6) of the Indian Electricity Act, 1910, it is the Chief Electrical Inspector of the Government who is the competent authority to decide meter dispute cases; and that this is so, notwithstanding the provisions of the Indian Electricity (A.P. Amendment) Act, 2000, (Act 35 of 2000).

A Full Bench of this Court in **Klayman Procelains Limited, Hyderabad and others v Superintending Engineer, Operation, Mahabubnagar Circle, A.P.S.E. Board, Hyderabad and others**, held that the disputes as to the correctness of the meter or its defective functioning and where no fraudulent conduct on the part of the consumer or indulging in pilferage by him of electrical energy is alleged, falls to be considered by the Chief Electrical Inspector of the State in terms of Section 26(6) of the Electricity Act, 1910 notwithstanding the provisions of the Terms and Conditions of Supply.

The learned Standing counsel for the respondent-Corporation does not demur from the position of law as enunciated by the Full Bench of this Court (*supra*) nor it is contended that the law declared therein

does not hold the field as on date.

In the circumstances and in the light of law declared in **Klayman Procelains Limited, Hyderabad and others v Superintending Engineer, Operation, Mahabubnagar Circle, A.P.S.E. Board, Hyderabad and others** (*supra*), the second respondent is seen to be patently incompetent to have made the assessment as contained in the proceedings dated 23.03.2004. As such, since the dispute as to the meter in the petitioner's premises would have to be adjudicated and the assessment made only by the Chief Electrical Inspector of the State concerned, the order impugned dated 23.03.2004 issued by the second respondent is incompetent and it is accordingly set aside. The parties are at liberty to pursue the appropriate remedy in accordance law, as the order of the second respondent has been set aside only on the ground of lack of jurisdiction.

The writ petition is allowed as above. However, there shall be no order as to costs.

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03.12.2004

VGB

To

1 The Chief Managing Director, Transmission Corporation of A.P.Ltd.,

(A.P.Transco) Vidyut Soudha, Khairatabad,Hyderabad.
2 The Superintendent Engineer, Operation Circle, Eastern Power Distribution

Company of A.P. Limited, Eluru,West Godavari Dist.
3 The Assistant Divisional Engineer, Operation, Eastern Power Distribution

Company of A.P. Limited, Jangareddigudem, W.G.Dist.
4 The Junior Accounts Officer, Sub-R.O.Eastern Power Distribution Company

of A.P. Ltd., Jangareddigudem, West Godavari Dist.

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